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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,726	04/19/2004	Dingge Xiong		1371

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DINGGE XIONG
APT 201
2463 SAWTELLE BLVD
LOS ANGELES, CA 90064

EXAMINER

BALDWIN, GORDON

ART UNIT	PAPER NUMBER
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1775

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/826,726	Applicant(s) XIONG, DINGGE	
	Examiner Gordon R. Baldwin	Art Unit 1775	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 7-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In **claim 7, 8, 9 and 12**, the use of "arch top edge", "arch bottom edge", left vertical edge", right vertical edge", "arc lines" and "edge line cutting" are not adequately described or defined in the specification, drawing or original claims to inform one of ordinary skill in the art of their structural relationship to the other feature described in the specification and drawing.

In **claims 10, 11, 13 and 14**, the use of "top-left extension lines", "top-right extension lines", "bottom-left extension lines", "bottom-right extension lines", "left vertical lines", "right vertical lines", "left vertical edge" and "right vertical edge" are not adequately described or defined in the specification, drawing or original claims to inform one of ordinary skill in the art of their structural relationship to the other feature described in the specification and drawing.

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As for **claims 15 and 16**, since they depend from claims violating 35 U.S.C. 112, first paragraph, they are also deemed to lack structural specificity in regard to their descriptions.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With the applicant's use of so much new matter, as shown in the 35 U.S.C. 112, first paragraph rejection above, claims 7-16 are considered to be vague and indefinite since no explicit teaching or definition of these new terms are found in the specification to give a complete and detailed description of the claimed article.

Claim 7 recites the limitation "the two sides" in line 12 of claim 7. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 7, 8, 9 are rejected under 35 U.S.C. 102(a) as being anticipated by Julliard (US Pat. No. 6,667,109).

Consider claim 7, Julliard teaches an ornament (100) (or ceiling medallion) with a flat body and a front surface (Fig. 1 & 5) with a predetermined shape and having a plurality of arced edges in a circular symmetrical geometric pattern. (Fig. 1, the edges shown at # 10 and #20) Julliard teaches in figure 1 and 2 (Col. 3 lines 3-15 and 40-50) that the ornament has a front decorated sides while the backside (which is considered to be on the same plane) of the ornament is planar, which is considered to have the ability to applied to a variety of surfaces including walls. (Col. 4 lines 35-42) Julliard is considered to teach the use of cutting vertexes (which are considered to be the left and right vertical edges) and cutting points (considered to be the edge line cutting) at number 30 and 32 and 40 and 42 in figure 2, where the two portions of the ornament will come together, in addition to being at the edge of the body of the individual pieces of the ornament (100).

Consider claim 8, the top of the arc in figure1 is considered to have an arc edge and an arc line with either arced surface, which is considered to form a symmetrical arc line when put together. (Fig. 1)

Consider claim 9, Figure 1 of Julliard shows a plurality of arc lines (#10 and #20) that are arranged symmetrically with the top and bottom edges being symmetrical.

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Julliard (US Pat. No. 6,667,109).

Consider claims 12, 15 and 16, these claims are considered to be aesthetic design choices and matters relating to ornamentation are considered to be obvious to a person of ordinary skill in the art at the time of the invention because embellishment or using different colors has no mechanical function, therefore matter cannot be relied upon to patentably distinguish the claimed invention from the prior art. (In re Seid, 161 F.2d, 73 USPQ 431 (CCPA 1947))

Response to Arguments

Applicant's arguments filed 3/16/2007 have been fully considered but they are not persuasive. In regard to the 102 (a) rejection with Julliard, Julliard is considered to be symmetrical since it is circular. Additionally, that articles shown in the applicant's drawings, especially those sent 3/16/2007, are considered to show the same type of symmetrical styling. When Julliard is fully constructed the "underledge" sections are not visible. As for Julliard's edge lines not being symmetrical, this limitation is considered to

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be a design choice with no mechanical function and cannot be relied upon to patentably distinguish the claimed invention from the prior art. As for the cutting of the medallion, the fact that Julliard does not teach the method by which the medallion is cut is not a concern, the only concern is what claims of the applicant that the article of Julliard anticipates or renders obvious. As for linear designs, Julliard is still considered to form symmetrical linear design from the way that claim 7 is worded, since Julliard is considered to show multiple arches with edges (depending on their orientation, they are vertical) that fit together, however, the vertical edges, as claimed in claim 7 are considered to be new matter since they are not mentioned in the specification.

Applicant's arguments, filed 3/26/2007, with respect to the rejections involving Naidj and Jacobozzi have been fully considered and are persuasive. The rejection of claims 1-3 with Naidj and claims 1-5 Jacobozzi have been withdrawn.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gordon R. Baldwin whose telephone number is (571)272-5166. The examiner can normally be reached on M-F 7:45-5:15.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer McNeil can be reached on 571-272-1540. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GRB


JENNIFER C. MCNEIL
SUPERVISORY PATENT EXAMINER
6/11/7